

REMARKS

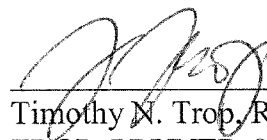
Attached is a Declaration which attempts to clarify the issue raised by the Board of Appeals with the prior Declaration. It suggests that the appeal brief was supported by gratuitous attorney argument. It was intended that the Declaration provide facts from a percipient witness. What happened was the undersigned is the one who actually took the material from one application and put it in another patent application. No one else but the undersigned knows about this and, thus, in fact, the undersigned was the percipient witness. The arguments were not unsupported arguments of counsel, except to the extent that the previous Declaration was less than absolutely clear that it was the undersigned who took the material and not some third party, such as one of the inventors.

In the present case where the percipient witness is the attorney, what is being provided is not argument of counsel or unsupported or gratuitous statements. It is the testimony of the only percipient witness who would know, which is the undersigned.

Moreover, the attorney's Declaration is supported by the commonality of the wording and depiction involved. Thus, there is corroborating evidence for the positions set forth in the attorney Declaration.

Respectfully submitted,

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